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PART - VII

GOVERNMENT OF MEGHALAYA ORDERS BY THE GOVERNOR

NOTIFICATION

The 17th November, 2005.

No.LL(B)10/2005/201.—The following Act passed by the Parliament and assent by the President of India and published in the Gazette of India, Extra Ordinary Part II, Section I on the date indicated below is hereby republished for general information.

Sl. No.	Name of Act	Act No. and Year	Date of Publication in the Gazette of India
1.	The Citizen (Amendment) Act, 2005.	No. 32 of 2005	25.8.2005
2.	The Displaced Persons claims and other Laws Repeal Act, 2005.	No. 38 of 2005	6.9.2005
3.	The Hindu Succession (Amendment) Act., 2005.	No. 39 of 2005	6.9.2005
4.	The payment of wages (Amendment) Act, 2005.	No. 41 of 2005	6.9.2005
5.	The National Rural Employment Guarantee Act, 2005.	No. 42 of 2005	7.9.2005
6.	The protection of women from Domestic Violence Act, 2005.	No. 43 of 2005	14.9.2005
7.	The immigration (Carriers Liability) Act, 2005.	No. 44 of 2005	16.9.2005
8.	The warehousing Corporations (Amendment) Act, 2005.	No. 45 of 2005	16.9.2005
9.	The High Court and Supreme Court Judges (Salaries and Conditions of Service) (Amendment) Act, 2005.	No. 46 of 2005	16.9.2005
10.	The Railways (Amendment) Act, 2005	No. 47 of 2005	16.9.2005.

THE CITIZENSHIP (AMENDMENT) ACT, 2005

An

ACT

further to amend the Citizenship Act, 1955.

Be it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:-

	<p>1. (1) This Act may be called the Citizenship (Amendment) Act, 2005.</p> <p>(2) It shall be deemed to have come into force on the 28th day of June, 2005.</p>	Short title and commencement.
57 of 1955.	<p>2. In section 2 of the Citizenship Act, 1955 (hereinafter referred to as the principal Act), in sub-section (1),—</p> <p>(i) for clause (ee), the following clause shall be substituted, namely:-</p> <p style="padding-left: 40px;">‘ee) "overseas citizen of India" means a person registered as an overseas citizen of India by the Central Government under section 7 A;</p> <p>(ii) clause (gg) shall be omitted.</p>	Amendment of Section 2.
Amendment of Section 5.	<p>3. In section 5 of the principal Act, in sub-section (1), in clause (g), for the words "two years", the words "one year" shall be substituted.</p>	
Substitution of new section for Section 7A.	<p>4. For section 7 A of the principal Act, the following section shall be substituted, namely:-</p> <p style="padding-left: 40px;">"7 A. The Central Government may, subject to such conditions and restrictions as may be prescribed, on an application made in this behalf, register as an overseas citizen of India—</p>	
Registration of overseas citizens of India.	<p style="padding-left: 40px;">(a) any person of full age and capacity,-</p> <p style="padding-left: 80px;">(i) who is citizen of another country, but was a citizen of India at the time of, or at any time after, the commencement of the Constitution; or</p> <p style="padding-left: 80px;">(ii) who is citizen of another country, but was eligible to become a citizen of India at the time of the commencement of the Constitution; or</p> <p style="padding-left: 80px;">(iii) who is citizen of another country, but belonged to a territory that became part of India after the 15th day of August, 1947; or</p> <p style="padding-left: 80px;">(iv) who is a child or a grand-child of such a citizen; or</p> <p style="padding-left: 40px;">(b) a person, who is a minor child of a person mentioned in clause (a):</p> <p style="padding-left: 40px;">Provided that no person, who is or had been a citizen of Pakistan, Bangladesh or such other country as the Central Government may, by notification in the Official Gazette, specify, shall be eligible for registration as an overseas citizen of India.”.</p>	

Omission of Fourth
Schedule.**5.** The Fourth Schedule to the principal Act shall be omitted.Repeal and
Saving.**6.** (1) The Citizenship (Amendment) Ordinance, 2005 is hereby repealed.

Ord. 2 of 2005.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

THE DISPLACED PERSONS CLAIMS AND OTHER LAWS REPEAL ACT, 2005

An

ACT

to repeal the Displaced Persons (Claims) Act, 1950 and certain other enactments.

Be it enacted by Parliament in the Fifty-Sixth Year of the Republic of India as follows:-

1. This Act may be called the Displaced Persons Claims and other Laws Repeal Act, 2005.

Short title.

2. The enactments specified in the Schedule are hereby repealed.

Repeal of
enactments.

THE SCHEDULE

(See section 2)

REPEAL OF ENACTMENTS

Sl. No.	Name of the Act	Year	Act No.
1.	The Administration of Evacuee Property Act	1950	31
2.	The Displaced Persons (Claims) Act	1950	44
3.	The Evacuee Interest (Separation) Act	1951	64
4.	The Displaced Persons (Claims) Supplementary Act	1954	12
5.	The Displaced Persons (Compensation and Rehabilitation) Act	1954	44

THE HINDU SUCCESSION (AMENDMENT) ACT, 2005

An

ACT

further to amend Hindu the Succession Act, 1956.

Be it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:-

	<p>1. (1) This Act may be called the Hindu Succession (Amendment) Act, 2005.</p>	Short title and commencement.
	<p>(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.</p>	
30 of 1956.	<p>2. In section 4 of the Hindu Succession Act, 1956 (hereinafter referred to as the principal Act), sub-section (2) shall be omitted.</p>	Amendment of Section 4.
	<p>3. For section 6 of the Principal Act, the following section shall be substituted, namely:—</p>	Substitution of new section for Section 6.
	<p>‘6 (1) On and from the commencement of the Hindu Succession (Amendment) Act, 2005, in a Joint Hindu family governed by the Mitakshara law, the daughter of a coparcener shall,—</p>	Devolution of interest in coparcenary property.
	<p>(a) by birth become a coparcener in her own right in the same manner as the son;</p>	
	<p>(b) have the same rights in the coparcenary property as she would have had if she had been a son; .</p>	
	<p>(c) be subject to the same liabilities in respect of the said coparcenary property as that of a son, and any reference to a Hindu Mitakshara coparcener shall be deemed to include a reference to a daughter of a coparcener:</p>	
	<p>Provided that nothing contained in this sub-section shall affect or invalidate any disposition or alienation including any partition or testamentary disposition of property which had taken place before the 20th day of December, 2004.</p>	
	<p>(2) Any property to which a female Hindu becomes entitled by virtue of sub-section (1) shall be held by her with the incidents of coparcenary ownership and shall be regarded, notwithstanding anything contained in this Act, or any other law for the time being in force, as property capable of being disposed of by her by testamentary disposition.</p>	
	<p>(3) Where a Hindu dies after the commencement of the Hindu Succession (Amendment) Act, 2005, his interest in the property of a Joint Hindu family governed by the Mitakshara law, shall devolve by testamentary or intestate succession, as the case may be, under this Act and not by survivorship, and the coparcenary property shall be deemed to have been divided as if a partition had taken place and,—</p>	

(a) the daughter is allotted the same share as is allotted to a son;

(b) the share of the pre-deceased son or a pre-deceased daughter, as they would have got had they been alive at the time of partition, shall be allotted to the surviving child of such pre-deceased son or of such pre-deceased daughter; and

(c) the share of the pre-deceased child of a pre-deceased son or of a pre-deceased daughter, as such child would have got had he or she been alive at the time of the partition, shall be allotted to the child of such pre-deceased child of the pre-deceased son or a pre-deceased daughter, as the case may be.

Explanation,— For the purposes of this sub-section, the interest of a Hindu Mitakshara coparcener shall be deemed to be the share in the property that would have been allotted to him if a partition of the property had taken place immediately before his death, irrespective of whether he was entitled to claim partition or not.

(4) After the commencement of the Hindu Succession (Amendment) Act, 2005, no court shall recognise any right to proceed against a son, grandson or great-grandson for the recovery of any debt due from his father, grandfather or great-grandfather solely on the ground of the pious obligation under the Hindu law, of such son, grandson or great-grandson to discharge any such debt:

Provided that in the case of any debt contracted before the commencement of the Hindu Succession (Amendment) Act, 2005, nothing contained in this sub-section shall affect—

(a) the right of any creditor to proceed against the son, grandson or great-grandson, as the case may be; or

(b) any alienation made in respect of or in satisfaction of, any such debt, and any such right or alienation shall be enforceable under the rule of pious obligation in the same manner and to the same extent as it would have been enforceable as if the Hindu Succession (Amendment) Act, 2005 had not been enacted.

*Explanation,—*For the purposes of clause (a), the expression "son", "grandson" or "great-grandson" shall be deemed to refer to the son, grandson or great-grandson, as the case may be, who was born or adopted prior to the commencement of the Hindu Succession (Amendment) Act, 2005.

(5) Nothing contained in this section shall apply to a partition, which has been effected before the 20th day of December, 2004.

16 of 1908.

Explanation,— For the purposes of this section "partition" means any partition made by execution of a deed of partition duly registered under the Registration Act, 1908 or partition effected by a decree of a court. ' .

4. Section 23 of the principal Act shall be omitted.

Omission of Section
23.

- | | |
|--|--------------------------|
| 5. Section 24 of the principal Act shall be omitted. | Omission of Section 24. |
| 6. In Section 30 of the Principal Act, for the words "disposed of by him", the words "disposed of by him or by her" shall be substituted. | Amendment of Section 30. |
| 7. In the Schedule to the Principal Act, under the sub-heading "Class 1", after the words "widow of a pre-deceased son of a pre-deceased son", the words "son of a pre-deceased daughter of a pre-deceased daughter; daughter of a pre-deceased daughter of a pre-deceased daughter; daughter of a pre-deceased son of a pre-deceased daughter; daughter of a pre-deceased daughter of a pre-deceased son" shall be added. | Amendment of Schedule. |

THE PAYMENT OF WAGES (AMENDMENT) ACT, 2005

An

ACT,

further to amend the Payment of Wages Act, 1936.

Be it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:-

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|---|-------------------------------|
| 1. (1) This Act may be called the Payment of Wages (Amendment) Act, 2005. | Short title and commencement. |
|---|-------------------------------|

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

- | | | |
|------------|--|-------------------------|
| 4 of 1936. | 2. In Section 1 of the Payment of Wages Act, 1936 (hereinafter referred to as the Principal Act), for sub-section (6) the following sub-section shall be substituted, namely:- | Amendment of Section 1. |
|------------|--|-------------------------|

“6 This Act applies to wages payable to an employed person in respect of a wage period if such wages for that wage period do not exceed six thousand five hundred rupees per month or such other higher sum which, on the basis of figures of the Consumer Expenditure Survey published by the National Sample Survey Organisation, the Central Government may, after every five years, by notification in the Official Gazette, specify.”.

Substitution of references to certain expressions by other expression.

3. Throughout the Principal Act, unless otherwise expressly provided for, the expressions "the Central Government or a State Government" and "the State Government", wherever they occur, the expression "appropriate Government" shall be substituted and such other consequential amendments as the rules of grammar may require shall also be made.

Amendment of Section 2.

4. In Section 2 of the Principal Act,-

(a) clauses (i), (ia) and (ib) shall be re-numbered as clauses (ia), (ib) and (ic), respectively, and before clause (ia) as so re-numbered, the following clause shall be inserted, namely:-

'(i) "appropriate Government" means, in relation to railways, air transport services, mines and oilfields, the Central Government and, in relation to all other cases, the State Government;';

(b) for clause (v), the following clause shall be substituted, namely:-

(v) "railway administration" has the meaning assigned to it in clause (32) of Section 2 of the Railways Act, 1989;'

24 of 1989.

Substitution of new section for Section 3.

5. For Section 3 of the Principal Act, the following section shall be substituted, namely:-

Responsibility for payment of wages.

"3. (1) Every employer shall be responsible for the payment of all wages required to be paid under this Act to persons employed by him and in case of persons employed,-

(a) in factories, if a person has been named as the manager of the factory under clause (f) of sub-section (1) of Section 7 of the Factories Act, 1948;

63 of 1948.

(b) in industrial or other establishments, if there is a person responsible to the employer for the supervision and control of the industrial or other establishments;

(c) upon railways (other than in factories), if the employer is the railway administration and the railway administration has nominated a person in this behalf for the local area concerned;

(d) in the case of contractor, a person designated by such contractor who is directly under his charge; and

(e) in any other case, a person designated by the employer as a person responsible for complying with the provisions of the Act, the person so named, the person responsible to the employer, the person so nominated or the person so designated, as the case may be, shall be responsible for such payment.

(2) Notwithstanding anything contained in sub-section (1), it shall be the responsibility of the employer to make payment of all wages required to be made under this Act in case the contractor or the person designated by the employer fails to make such payment."

Amendment of Section 7.

6. In Section 7 of the Principal Act,-

(a) in sub-section (1), for the words, brackets and figures "sub-section (2) of Section 47 of the Indian Railways Act, 1890", the words and figures "the Railways Act, 1989" shall be substituted;

9 of 1890.
24 of 1989.

(b) in sub-section (2), in clause (i), for the words, figures and letter "in Section 58A of the Indian Income-tax Act, 1922", the words, brackets and figures "in clause (38) of Section 2 of the Income-tax Act, 1961" shall be substituted;

11 of 1922.
43 of 1961.

9 of 1890.
24 of 1989.

(c) in sub-section (4), for the words and figures "the Indian Railways Act, 1890", the words and figures "the Railways Act, 1989" shall be substituted.

7. In Section 8 of the Principal Act, in sub-section (6), for the words "sixty days", the words "ninety days" shall be substituted.

Amendment of
Section 8.

8. In Section 15 of the Principal Act,-

Amendment of
Section 15.

(i) for sub-section (1), the following sub-section shall be substituted, namely:-

"(1) The appropriate Government may, by notification in the Official Gazette, appoint-

(a) any Commissioner for Workmen's Compensation; or

(b) any officer of the Central Government exercising functions as,-

(i) Regional Labour Commissioner; or

(ii) Assistant Labour Commissioner with at least two years'

experience; or

(c) any officer of the State Government not below the rank of Assistant Labour Commissioner with at least two years' experience; or

14 of 1947.

(d) a presiding officer of any Labour Court or Industrial Tribunal, constituted under the Industrial Disputes Act, 1947 or under any corresponding law relating to the investigation and settlement of industrial disputes in force in the State; or

(e) any other officer with experience as a Judge of a Civil Court or Judicial Magistrate, as the authority to hear and decide for any specified area all claims arising out of deductions from the wages, or delay in payment of the wages, of persons employed or paid in that area, including all matters incidental to such claims:

Provided that where the appropriate Government considers it necessary so to do, it may appoint more than one authority for any specified area and may, by general or special order, provide for the distribution or allocation of work to be performed by them under this Act.;"

(ii) for sub-section (3), the following sub-section shall be substituted, namely:-

"(3) When any application under sub-section (2) is entertained, the authority shall hear the applicant and the employer or other person responsible for the payment of wages under Section 3, or give them an opportunity of being heard, and, after such further enquiry, if any, as may be necessary, may, without prejudice to any other penalty to which such employer or other person is liable under this Act, direct the refund to the employed person of the amount deducted, or the payment of the delayed wages, together with the payment of such compensation as the authority may think fit, not exceeding ten times the amount deducted in the former case and not exceeding three thousand rupees but not less than one thousand five hundred rupees in the latter, and even if the amount deducted or delayed wages are paid before the disposal of the application, direct the payment of such compensation, as the authority may think fit, not exceeding two thousand rupees:

Provided that a claim under this Act shall be disposed of as far as practicable within a period of three months from the date of registration of the claim by the authority:

Provided further that the period of three months may be extended if both parties to the dispute agree for any *bona fide* reason to be recorded by the authority that the said period of three months may be extended to such period as may be necessary to dispose of the application in a just manner:

Provided also that no direction for the payment of compensation shall be made in the case of delayed wages if the authority is satisfied that the delay was due to—

(a) a *bonafide* error or *bona fide* dispute as to the amount payable to the employed person; or

(b) the occurrence of an emergency, or the existence of exceptional circumstances, the person responsible for the payment of the wages was unable, in spite of exercising reasonable diligence; or

(c) the failure of the employed person to apply for or accept payment.”;

(iii) in sub-section (4), for the words “not exceeding fifty rupees” wherever they occur, the words “not exceeding three hundred seventy-five rupees” shall be substituted.

Amendment of
Section 20.

9. In Section 20 of the Principal Act,—

(a) in sub-section (1), for the words “with fine which shall not be less than two hundred rupees but which may extend to one thousand rupees”, the words “with fine which shall not be less than one thousand five hundred rupees but which may extend to seven thousand five hundred rupees” shall be substituted;

(b) in sub-section (2), for the words “with fine which may extend to five hundred rupees”, the words “with fine which may extend to three thousand seven hundred fifty rupees” shall be substituted;

(c) after sub-section (2), the following sub-section shall be inserted, namely:—

“(2A) Whoever being required to nominate or designate a person under Section 3 fails to do so, such person shall be punishable with fine which may extend to three thousand rupees.”;

(d) in sub-section (3), for the words “with fine which shall not be less than two hundred rupees but which may extend to one thousand rupees”, the words “with fine which shall not be less than one thousand five hundred rupees but which may extend to seven thousand five hundred rupees” shall be substituted;

(e) in sub-section (4), for the words “with fine which shall not be less than two hundred rupees but which may extend to one thousand rupees”, the words “with fine which shall not be less than one thousand five hundred rupees but which may extend to seven thousand five hundred rupees” shall be substituted;

(f) in sub-section (5), for the words “with fine which shall not be less than five hundred rupees but which may extend to three thousand rupees”, the words “with fine which shall not be less than three thousand seven hundred fifty rupees but which may extend to twenty-two thousand five hundred rupees” shall be substituted;

(g) in sub-section (6), for the words “one hundred rupees”, the words “seven hundred fifty rupees” shall be substituted.

Substitution of new
section for Section
24.

10. For Section 24 of the Principal Act, the following section shall be substituted, namely:—

Delegation of
powers.

“24. The appropriate Government may, by notification in the Official Gazette, direct that any power exercisable by it under this Act shall, in relation to such matters and subject to such conditions, if any, as may be specified in the direction, be also exercisable—

(a) where the appropriate Government is the Central Government, by such officer or authority subordinate to the Central Government or by the State Government or by such officer or authority subordinate to the State Government, as may be specified in the notification;

(b) where the appropriate Government is a State Government, by such officer or authority subordinate to the State Government as may be specified in the notification.”.

11. In Section 26 of the Principal Act,—

Amendment of
Section 26.

(a) in sub-section (4), for the words “which may extend to two hundred rupees”; the words “which shall not be less than seven hundred fifty rupees but which may extend to one thousand five hundred rupees” shall be substituted;

(b) after sub-section (6), the following sub-section shall be inserted, namely:—

“(7) All rules made under this section by the State Government shall, as soon as possible after they are made, be laid before the State Legislature.”.

THE NATIONAL RURAL EMPLOYMENT GUARANTEE ACT, 2005

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SCHEDULE I.

SCHEDULE II.

THE NATIONAL RURAL EMPLOYMENT GUARANTEE ACT 2005**An
Act**

to provide for the enhancement of livelihood security of the households in rural areas of the country by providing at least one hundred days of guaranteed wage employment in every financial year to every household whose adult members volunteer to do unskilled manual work and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:-

CHAPTER I

PRELIMINARY.

I. (1) This Act may be called the National Rural Employment Guarantee Act, 2005.

Short title and commencement.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different States or for different areas in a State and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision in such State or, as the case may be, in such area:

Provided that this Act shall be applicable to the whole of the territory to which it extends within a period of five years from the date of enactment of this Act.

Definitions.

2.. In this Act, unless the context otherwise requires,-

(a) "adult" means a person who has completed his eighteenth years of age;

(b) "applicant" means the head of a household or any of its other adult members who has applied for employment under the Scheme;

(c) "Block" means a community development area within a district comprising a group of Gram Panchayats;

(d) "Central Council" means the Central Employment Guarantee Council constituted under sub-section (1) of section 10;

(e) "District Programme Coordinator" means an officer of the State Government designated as such under sub-section (1) of section 14 for implementation of the Scheme in a district;

(f) "household" means the members of a family related to each other by blood, marriage or adoption and normally residing together and sharing meals or holding a common ration card;

(g) "implementing agency" includes any department of the Central Government or a State Government, a Zila Parishad, Panchayat at intermediate level, Gram Panchayat or any local authority or Government undertaking or non-governmental organisation authorised by the Central Government or the State Government to undertake the implementation of any work taken up under a Scheme;

(h) "minimum wage", in relation to any area, means the minimum wage fixed by the State Government under section 3 of the Minimum Wages Act, 1948 for agricultural labourers as applicable in that area;

11 of 1948.

(i) "National Fund" means the National Employment Guarantee Fund established under sub-section (1) of section 20;

(j) "notification" means a notification published in the Official Gazette;

(k) "preferred work" means any work which is taken up for implementation on a priority basis under a Scheme;

(l) "prescribed" means prescribed by rules made under this Act;

(m) "Programme Officer" means an officer appointed under sub-section (1) of section 15 for implementing the Scheme;

(n) "project" means any work taken up under a Scheme for the purpose of providing employment to the applicants;

(o) "rural area" means any area in a State except those areas covered by any urban local body or a Cantonment Board established or constituted under any law for the time being in force;

(p) "Scheme" means a Scheme notified by the State Government under sub-section (1) of section 4;

(q) "State Council" means the State Employment Guarantee Council constituted under sub-section (1) of section 12;

(r) "unskilled manual work" means any physical work which any adult person is capable of doing without any skill or special training;

(s) "wage rate" means the wage rate referred to in section 6.

CHAPTER II

GUARANTEE OF EMPLOYMENT IN RURAL AREAS

3. (1) Save as otherwise provided, the State Government shall, in such rural area in the State as may be notified by the Central Government, provide to every household whose adult members volunteer to do unskilled manual work not less than one hundred days of such work in a financial year in accordance with the Scheme made under this Act.

Guarantee of rural employment to household.

(2) Every person who has done the work given to him under the Scheme shall be entitled to receive wages at the wage rate for each day of work.

(3) Save as otherwise provided in this Act, the disbursement of daily wages shall be made on a weekly basis or in any case not later than a fortnight after the date on which such work was done.

(4) The Central Government or the State Government may, within the limits of its economic capacity and development, make provisions for securing work to every adult member of a household under a Scheme for any period beyond the period guaranteed under sub-section (1), as may be expedient.

CHAPTER III

EMPLOYMENT GUARANTEE SCHEMES AND UNEMPLOYMENT ALLOWANCE

4. (1) For the purposes of giving effect to the provisions of section 3, every State Government shall, within six months from the date of commencement of this Act, by notification, make a Scheme, for providing not less than one hundred days of guaranteed employment in a financial year to every household in the rural areas covered under the Scheme and whose adult members, by application, volunteer to do unskilled manual work subject to the conditions laid down by or under this Act and in the Scheme:

Employment
Guarantee
Schemes for
rural areas.

Provided that until any such Scheme is notified by the State Government, the Annual Action Plan or Perspective Plan for the *Sampoorna Grameen Rozgar Yojana* (SGRY) or the National Food for Work Programme (NFFWP) whichever is in force in the concerned area immediately before such notification shall be deemed to be the action plan for the Scheme for the purposes of this Act.

(2) The State Government shall publish a summary of the Scheme made by it in at least two local newspapers, one of which shall be in a vernacular language circulating in the area or areas to which such Scheme shall apply.

(3) The Scheme made under sub-section (1) shall provide for the minimum features specified in Schedule I.

5. (1) The State Government may, without prejudice to the conditions specified in Schedule II, specify in the Scheme the conditions for providing guaranteed employment under this Act.

Conditions for
providing
guaranteed
employment.

(2) The persons employed under any Scheme made under this Act shall be entitled to such facilities not less than the minimum facilities specified in Schedule II.

11 of 1948.

6. (1) Notwithstanding anything contained in the Minimum Wages Act, 1948, the Central Government may, by notification, specify the wage rate for the purposes of this Act:

Wage rate.

Provided that different rates of wages may be specified for different areas:

Provided further that the wage rate specified from time to time under any such notification shall not be at a rate less than sixty rupees per day.

11 of 1948.

(2) Until such time as a wage rate is fixed by the Central Government in respect of any area in a State, the minimum wage fixed by the State Government under section 3 of the Minimum Wages Act, 1948 for agricultural labourers, shall be considered as the wage rate applicable to that area.

Payment of
unemployment
allowance.

7. (1) If an applicant for employment under the Scheme is not provided such employment within fifteen days of receipt of his application seeking employment or from the date on which the employment has been sought in the case of an advance application, whichever is later, he shall be entitled to a daily unemployment allowance in accordance with this section.

(2) Subject to such terms and conditions of eligibility as may be prescribed by the State Government and subject to the provisions of this Act and the Schemes and the economic capacity of the State Government, the unemployment allowance payable under sub-section (1) shall be paid to the applicants of a household subject to the entitlement of the household at such rate as may be specified by the State Government, by notification, in consultation with the State Council:

Provided that no such rate shall be less than one-fourth of the wage rate for the first thirty days during the financial year and not less than one-half of the wage rate for the remaining period of the financial year.

(3) The liability of the State Government to pay unemployment allowance to a household during any financial year shall cease as soon as—

(a) the applicant is directed by the Gram Panchayat or the Programme Officer to report for work either by himself or depute at least one adult member of his household; or

(b) the period for which employment is sought comes to an end and no member of the household of the applicant had turned up for employment; or

(c) the adult members of the household of the applicant have received in total at least one hundred days of work within the financial year; or

(d) the household of the applicant has earned as much from the wages and unemployment allowance taken together which is equal to the wages for one hundred days of work during the financial year.

(4) The unemployment allowance payable to the household of an applicant jointly shall be sanctioned and disbursed by the Programme Officer or such local authority (including the Panchayats at the district, intermediate or village level) as the State Government may, by notification, authorise in this behalf.

(5) Every payment of unemployment allowance under sub-section (1) shall be made or offered not later than fifteen days from the date on which it became due for payment—

(6) The State Government may prescribe the procedure for payment of unemployment allowance under this Act.

Non-disbursement of unemployment allowance in certain circumstances.

8. (1) If the Programme Officer is not in a position to disburse the unemployment allowance in time or at all for any reason beyond his control, he shall report the matter to the District Programme Coordinator and announce such reasons in a notice to be displayed on his notice board and the notice board of the Gram Panchayat and such other conspicuous places as he may deem necessary.

(2) Every case of non-payment or delayed payment of unemployment allowance shall be reported in the annual report submitted by the District Programme Coordinator to the State Government along with the reasons for such non-payment or delayed payment.

(3) The State Government shall take all measures to make the payment of unemployment allowance reported under sub-section (1) to the concerned household as expeditiously as possible.

Disentitlement to receive unemployment allowance in certain circumstances.

9. An applicant who—

(a) does not accept the employment provided to his household under a Scheme;

or

(b) does not report for work within fifteen days of being notified by the Programme Officer or the implementing agency to report for the work; or

(c) continuously remains absent from work, without obtaining a permission from the concerned implementing agency for a period of more than one week or remains absent for a total period of more than one week in any month, shall not be eligible to claim the unemployment allowance payable under this Act for a period of three months but shall be eligible to seek employment under the Scheme at any time.

CHAPTER IV

IMPLEMENTING AND MONITORING AUTHORITIES

10. (1) With effect from such date as the Central Government may, by notification specify, there shall be constituted a Council to be called the Central Employment Guarantee Council to discharge the functions, and perform the duties, assigned to it by or under this Act.—

Central
Employment
Guarantee
Council.

(2) The headquarters of the Central Council shall be at Delhi.

(3) The Central Council shall consist of the following members to be appointed by the Central Government, namely:-

(a) a Chairperson;

(b) not more than such number of representatives of the Central Ministries including the Planning Commission not below the rank of Joint Secretary to the Government of India as may be determined by the Central Government;

(c) not more than such number of representatives of the State Governments as may be determined by the Central Government;

(d) not more than fifteen non-official members representing Panchayati Raj Institutions, organisations of workers and disadvantaged groups:

Provided that such non-official members shall include two chairpersons of District Panchayats nominated by the Central Government by rotation for a period of one year at a time:

Provided further that not less than one-third of the non-official members nominated under this clause shall be women:

Provided also that not less than one-third of the non-official members shall be belonging to the Scheduled Castes, the Scheduled Tribes, the Other Backward Classes and Minorities;

(e) such number of representatives of the States as the Central Government may, by rules, determine in this behalf;

(f) a Member-Secretary not below the rank of Joint Secretary to the Government of India.

(4) The terms and conditions subject to which the Chairperson and other members of the Central Council may be appointed and the time, place and procedure of the meetings (including the quorum at such meetings) of the Central Council shall be such as may be prescribed by the Central Government.

11 (1) The Central Council shall perform and discharge the following functions and duties, namely:-

Functions and
duties of Central
Council.

(a) establish a central evaluation and monitoring system;

(b) advise the Central Government on all matters concerning the implementation of this Act;

(c) review the monitoring and redressal mechanism from time to time and recommend improvements required;

(d) promote the widest possible dissemination of information about the Schemes made under this Act;

(e) monitoring the implementation of this Act;

(f) preparation of annual reports to be laid before Parliament by the Central Government on the implementation of this Act;

(g) any other duty or function as may be assigned to it by the Central Government.

(2) The Central Council shall have the power to undertake evaluation of the various Schemes made under this Act and for this purpose collect or cause to be collected statistics pertaining to the rural economy and the implementation of the Schemes.

State
Employment
Guarantee Council.

12. (1) For the purposes of regular monitoring and reviewing the implementation of this Act at the State level, every State Government shall constitute a State Council to be known as the..... (name of the State) State employment Guarantee Council with a Chairperson and such number of official members as may be determined by the State Government and not more than fifteen non-official members nominated by the State Government from Panchayati Raj institutions, organisations of workers and disadvantaged groups:

Provided that not less than one-third of the non-official members nominated under this clause shall be women:

Provided further that not less than one third of the non-official members shall be belonging to the Scheduled Castes, the Scheduled Tribes, the Other Backward Classes and Minorities.

(2) The terms and conditions subject to which the Chairperson and members of the State Council may be appointed and the time, place and procedure of the meetings (including the quorum at such meetings) of the State Council shall be such as may be prescribed by the State Government.

(3) The duties and functions of the State Council shall include—

(a) advising the State Government on all matters concerning the Scheme and its implementation in the State;

(b) determining the preferred works;

(c) reviewing the monitoring and redressal mechanisms from time to time and recommending improvements;

(d) promoting the widest possible dissemination of information about this Act and the Schemes under it;

(e) monitoring the implementation of this Act and the Schemes in the State and coordinating such implementation with the Central Council;

(f) preparing the annual report to be laid before the State Legislature by the State Government;

(g) any other duty or function as may be assigned to it by the Central Council or the State Government.

(3) The State Council shall have the power to undertake an evaluation of the Schemes operating in the State and for that purpose to collect or cause to be collected statistics pertaining to the rural economy and the implementation of the Schemes and Programmes in the State.

13. (1) The Panchayats at district, intermediate and village levels shall be principal authorities for planning and implementation of the Schemes made under this Act.

Principal authorities
for planning and
implementation of
Schemes.

(2) The functions of the Panchayats at the district level shall be—

(a) to finalise and approve blockwise shelf of projects to be taken up under a programme under the Scheme;

(b) to supervise and monitor the projects taken up at the Block level and district level; and

(c) to carry out such other functions as may be assigned to it by the State Council, from time to time.

(3) The functions of the Panchayat at intermediate level shall be—

(a) to approve the Block level Plan for forwarding it to the district Panchayat at the district level for final approval;

(b) to supervise and monitor the projects taken up at the Gram Panchayat and Block level; and

(c) to carry out such other functions as may be assigned to it by the State Council, from time to time.

(4) The District Programme Coordinator shall assist the Panchayat at the district level in discharging its functions under this Act and any Scheme made thereunder.

14. (1) The Chief Executive Officer of the District Panchayat or the Collector of the district or any other district level officer of appropriate rank as the State Government may decide shall be designated as the District Programme Coordinator for the implementation of the Scheme in the district.

District Programme
Coordinator.

(2) The District Programme Coordinator shall be responsible for the implementation of the Scheme in the district in accordance with the provisions of this Act and the rules made thereunder.

(3) The functions of the District Programme Coordinator shall be—

(a) to assist the district Panchayat in discharging its functions under this Act and any scheme made thereunder;

(b) to consolidate the plans prepared by the Blocks and project proposals received from other implementing agencies for inclusion in the shelf of projects to be approved by the Panchayat at district level;

(c) to accord necessary sanction and administrative clearance, wherever necessary;

(d) to coordinate with the Programme Officers functioning within his jurisdiction and the implementing agencies to ensure that the applicants are provided employment as per their entitlements under this Act;

(e) to review, monitor and supervise the performance of the Programme Officers;

(f) to conduct periodic inspection of the works in progress; and

(g) to redress the grievances of the applicants.

(4) The State Government shall delegate such administrative and financial powers to the District Programme Coordinator as may be required to enable him to carry out his functions under this Act.

(5) The Programme Officer appointed under sub-section (1) of section 15 and all other officers of the State Government and local authorities and bodies functioning within the district shall be responsible to assist the District Programme Coordinator in carrying out his functions under this Act and the Schemes made thereunder.

(6) The District Programme Coordinator shall prepare in the month of December every year a labour budget for the next financial year containing the details of anticipated demand for unskilled manual work in the district and the plan for engagement of labourers in the works covered under the Scheme and submit it to the district panchayat.

Programme
Officer.

15. (1) At every Panchayat at intermediate level, the State Government shall appoint a person who is not below the rank of Block Development Officer with such qualifications and experience as may be determined by the State Government as Programme Officer at the Panchayat at intermediate level.

(2) The Programme Officer shall assist the Panchayat at intermediate level in discharging its functions under this Act and any Scheme made thereunder.

(3) The Programme Officer shall be responsible for matching the demand for employment with the employment opportunities arising from projects in the area under his jurisdiction.

(4) The Programme Officer shall prepare a plan for the Block under his jurisdiction by consolidating the project proposals prepared by the Gram Panchayats and the proposals received from intermediate panchayats.

(5) The functions of the Programme Officer shall include—

(a) monitoring of projects taken up by the Gram Panchayats and other implementing agencies within the Block;

(b) sanctioning and ensuring payment of unemployment allowance to the eligible households;

(c) ensuring prompt and fair payment of wages to all labourers employed under a programme of the Scheme within the Block;

(d) ensuring that regular social audits of all works within the jurisdiction of the Gram Panchayat are carried out by the Gram Sabha and that prompt action is taken on the objections raised in the social audit;

(e) dealing promptly with all complaints that may arise in connection with the implementation of the Scheme within the Block; and

(f) any other work as may be assigned to him by the District Programme Coordinator or the State Government.

(6) The Programme Officers shall function under the direction, control and superintendence of the District Programme Coordinator.

(7) The State Government may, by order, direct that all or any of the functions of a Programme Officer shall be discharged by the Gram Panchayat or a local authority.

Responsibilities of
the Gram
Panchayats.

16. (1) The Gram Panchayat shall be responsible for identification of the projects in the Gram Panchayat area to be taken up under a Scheme as per the recommendations of the Gram Sabha and the Ward Sabhas and for executing and supervising such works.

(2) A Gram Panchayat may take up any project under a Scheme within the area of the Gram Panchayat as may be sanctioned by the Programme Officer.

(3) Every Gram Panchayat shall, after considering the recommendations of the Gram Sabha and the Ward Sabhas, prepare a development plan and maintain a shelf of possible works to be taken up under the Scheme as and when demand for work arises.

(4) The Gram Panchayat shall forward its proposals for the development projects including the order of priority between different works to the Programme Officer for scrutiny and preliminary approval prior to the commencement of the year in which it is proposed to be executed.

(5) The Programme Officer shall allot at least fifty per cent of the works in terms of its cost under a Scheme to be implemented through the Gram Panchayats.

(6) The Programme Officer shall supply each Gram Panchayat with—

(a) the muster rolls for the works sanctioned to be executed by it; and

(b) a list of employment opportunities available elsewhere to the residents of the Gram Panchayat.

(7) The Gram Panchayat shall allocate employment opportunities among the applicants and ask them to report for work.

(8) The works taken up by a Gram Panchayat under a Scheme shall meet the required technical standards and measurements.

17. (1) The Gram Sabha shall monitor the execution of works within the Gram Panchayat.

Social audit of work
by Gram Sabha.

(2) The Gram Sabha shall conduct regular social audits of all the projects under the Scheme taken up within the Gram Panchayat.

(3) The Gram Panchayat shall make available all relevant documents including the muster rolls, bills, vouchers, measurement books, copies of sanction orders and other connected books of account and papers to the Gram Sabha for the purpose of conducting the social audit.

18. The State Government shall make available to the District Programme Coordinator and the Programme Officers necessary staff and technical support as may be necessary for the effective implementation of the Scheme.

Responsibilities of State Government in implementing Scheme.

19. The State Government shall, by rules, determine appropriate grievance redressal mechanisms at the Block level and the district level for dealing with any complaint by any person in respect of implementation of the Scheme and lay down the procedure for disposal of such complaints.

Grievance redressal mechanism.

CHAPTER V

ESTABLISHMENT OF NATIONAL AND STATE EMPLOYMENT GUARANTEE FUNDS AND AUDIT

20. (1) The Central Government shall, by notification, establish a fund to be called the National Employment Guarantee Fund for the purposes of this Act.

National Employment Guarantee Fund.

(2) The Central Government may, after due appropriation made by Parliament by law in this behalf, credit by way of grants or loans such sums of money as the Central Government may consider necessary to the National Fund.

(3) The amount standing to the credit of the National Fund shall be utilised in such manner and subject to such conditions and limitations as may be prescribed by the Central Government

21. (1) The State Government may, by notification, establish a fund to be called the State Employment Guarantee Fund for the purposes of implementation of the Scheme.

State Employment Guarantee Fund.

(2) The amount standing to the credit of the State Fund shall be expended in such manner and subject to such conditions and limitations as may be prescribed by the State Government for the purposes of implementation of this Act and the Schemes made thereunder and for meeting the administrative expenses in connection with the implementation of this Act.

(3) The State Fund shall be held and administered on behalf of the State Government in such manner and by such authority as may be prescribed by the State Government.

22. (1) Subject to the rules as may be made by the Central Government in this behalf, the Central Government shall meet the cost of the following, namely:—

Funding pattern.

(a) the amount required for payment of wages for unskilled manual work under the Scheme;

(b) up to three-fourths of the material cost of the Scheme including payment of wages to skilled and semi-skilled workers subject to the provisions of Schedule II;

(c) such percentage of the total cost of the Scheme as may be determined by the Central Government towards the administrative expenses, which may include the salary and allowances of the Programme Officers and his supporting staff, the administrative expenses of the Central Council, facilities to be provided under Schedule II and such other item as may be decided by the Central Government.

(2) The State Government shall meet the cost of the following, namely:—

(a) the cost of unemployment allowance payable under the Scheme;

(b) one-fourth of the material cost of the Scheme including payment of wages to skilled and semi-skilled workers subject to the provisions of Schedule II;

(c) the administrative expenses of the State Council.

Transparency and accountability.

23. (1) The District Programme Coordinator and all implementing agencies in the District shall be responsible for the proper utilisation and management of the funds placed at their disposal for the purpose of implementing a Scheme.

(2) The State Government may prescribe the manner of maintaining proper books and accounts of employment of labourers and the expenditure incurred in connection with the implementation of the provisions of this Act and the Schemes made thereunder.

(3) The State Government may, by rules, determine the arrangements to be made for the proper execution of Schemes and programmes under the Schemes and to ensure transparency and accountability at all levels in the implementation of the Schemes.

(4) All payments of wages in cash and unemployment allowances shall be made directly to the person concerned and in the presence of independent persons of the community on pre-announced dates.

(5) If any dispute or complaint arises concerning the implementation of a Scheme by the Gram Panchayat, the matter shall be referred to the Programme Officer.

(6) The Programme Officer shall enter every complaint in a complaint register maintained by him and shall dispose of the disputes and complaints within seven days of its receipt and in case it relates to a matter to be resolved by any other authority it shall be forwarded to such authority under intimation to the complainant.

Audit of accounts.

24. (1) The Central Government may, in consultation with the Comptroller and Auditor General of India, prescribe appropriate arrangements for audits of the accounts of the Schemes at all levels.

(2) The accounts of the Scheme shall be maintained in such form and in such manner as may be prescribed by the State Government.

CHAPTER VI

MISCELLANEOUS

Penalty for non-compliance.

25. Whoever contravenes the provisions of this Act shall on conviction be liable to a fine which may extend to one thousand rupees.

Power to delegate.

26. (1) The Central Government may, by notification, direct that the powers exercisable by it (excluding the power to make rules) may, in such circumstances and subject to such conditions and limitations, be exercisable also by the State Government or such officer subordinate to the Central Government or the State Government as it may specify in such notification.

(2) The State Government may, by notification, direct that the powers exercisable by it (excluding the power to make rules and Schemes) may, in such circumstances and subject to such conditions and limitations, be exercisable also by such officer subordinate to it as it may specify in such notification.

27. (1) The Central Government may give such directions as it may consider necessary to the State Government for the effective implementation of the provisions of this Act.

Power of Central Government to give directions.

(2) Without prejudice to the provisions of sub-section (1), the Central Government may, on receipt of any complaint regarding the issue or improper utilisation of funds granted under this Act in respect of any Scheme if *prima facie* satisfied that there is a case, cause an investigation into the complaint made by any agency designated by it and if necessary, order stoppage or release of funds to the Scheme and institute appropriate remedial measures for its proper implementation within a reasonable period of time.

28. The provisions of this Act or the Schemes made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of such law:

Act to have overriding effect.

Provided that where a State enactment exists or is enacted to provide employment guarantee for unskilled manual work to rural households consistent with the provisions of this Act under which the entitlement of the

households is not less than and the conditions of employment are not inferior to what is guaranteed under this Act, the State Government shall have the option of implementing its own enactment:

Provided further that in such cases the financial assistance shall be paid to the concerned State Government in such manner as shall be determined by the Central Government, which shall not exceed what the State would have been entitled to receive under this Act had a Scheme made under this Act had to be implemented.

29. (1) If the Central Government is satisfied that it is necessary or expedient so to do, it may, by notification, amend Schedule I or Schedule II and thereupon Schedule I or Schedule II, as the case may be, shall be deemed to have been amended accordingly.

Power to amend Schedules.

(2) A copy of every notification made under sub-section (1) shall be laid before each House of Parliament as soon as may be after it is made.

30. No suit, prosecution or other legal proceedings shall lie against the District Programme Coordinator, Programme Officer or any other person who is, or who is deemed to be, a public servant within the meaning of section 21 of the Indian Penal Code in respect of anything which is in good faith done or intended to be done under this Act or the rules or Schemes made thereunder.

Protection of action taken in good faith.

45 of 1860.

31. (1) The Central Government may, by notification, and subject to the condition of previous publication, make rules to carry out the provisions of this Act.

Power of Central Government to make rules.

(2) In particular, and without the prejudice of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the number of representatives of the State Governments under clause (e) of sub-section (3) of section 10;

(b) the terms and conditions subject to which the Chairman and other members of the Central Council may be appointed, and the time, place and procedure of the, meetings (including the quorum at such meetings) of the Central Council, under sub-section (4) of section 10;

(c) the manner in which and the conditions and limitations subject to which the National Fund shall be utilised under sub-section (3) of section 20;

(d) the rules relating to funding pattern to meet the cost of certain items under sub-section (1) of section 22;

(e) any other matter which is to be, or may be, prescribed or in respect of which provision is to be made by the Central Government by rules.

32. (1) The State Government may, by notification, and subject to the condition of previous publication, and consistent with this Act and the rules made by the Central Government, make rules to carry out the provisions of this Act.

Power of State Government to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

(a) the terms and conditions upon which eligibility for unemployment allowance may be determined under sub-section (2) of section 7;

(b) the procedure for payment of unemployment allowance under sub-section (6) of section 7;

(c) the terms and conditions subject to which the Chairperson and members of the State Council may be appointed, and the time, place and procedure of the meetings (including the quorum at such meetings) of their appointment to the State Council, under sub-section (2) of section 12;

(d) the grievance redressal mechanism at the Block level and the District level and the procedure to be followed in such matter under section 19;

(e) the manner in which and the conditions and limitations subject to which the State Fund shall be utilised under sub-section (2) of section 21;

(f) the authority who may administer and the manner in which he may hold the State Fund under sub-section (3) of section 21 ;

(g) the manner of maintaining books of account of employment of labourers and the expenditure under sub-section (2) of section 23;

(h) the arrangements required for proper execution of Schemes under sub-section (3) of section 23;

(i) the form and manner in which the accounts of the Scheme shall be maintained under sub-section (2) of section 24;

(j) any other matter which is to be, or may be, prescribed or in respect of which provision is to be made by the State Government by rules.

Laying of rules and Schemes.

33. (1) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall have thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(2) Every rule or Scheme made by the State Government under this Act shall, as soon as may be after it is made, be laid before each House of the State Legislature where there are two Houses, and where there is one House of the State Legislature, before that house.

Power to remove difficulties.

34. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Provided that no order shall be made under this section after the expiry of three years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

SCHEDULE I

[See section 4(3)]

MINIMUM FEATURES OF A RURAL EMPLOYMENT GUARANTEE SCHEME

1. The focus of the Scheme shall be on the following works in their order of priority:-

- (i) water conservation and water harvesting;
- (ii) drought proofing (including afforestation and tree plantation);
- (iii) irrigation canals including micro and minor irrigation works;
- (iv) provision of irrigation facility to land owned by households belonging to the Scheduled Castes and Scheduled Tribes or to land of beneficiaries of land reforms or that of the beneficiaries under the Indira Awas Yojana of the Government of India;
- (v) renovation of traditional water bodies including desilting of tanks;
- (vi) land development;
- (vii) flood control and protection works including drainage in water logged areas;
- (viii) rural connectivity to provide all-weather access; and
- (ix) any other work which may be notified by the Central Government in consultation with the State Government.

2. Creation of durable assets and strengthening the livelihood resource base of the rural poor shall be an important objective of the Scheme.

3. The works taken up under the scheme shall be in rural areas.

4. The State Council shall prepare a list of preferred works for different areas based on their ability to create durable assets.

5. The Scheme shall be subject to appropriate arrangements as may be laid down by the State Government under the rules issued by it for proper maintenance of the public assets created under the Scheme.

6. Under no circumstances shall the labourers be paid less than the wage rate.

7. When wages are directly linked with the quantity of work, the wages shall be paid according to the schedule of rates fixed by the State Government for different types of work every year, in consultation with the State Council.

8. The schedule of rates of wages for unskilled labourers shall be so fixed that a person working for seven hours would normally earn a wage equal to the wage rate.

9. The cost of material component of projects including the wages of the skilled and semi-skilled workers taken up under the Scheme shall not exceed forty per cent of the total project costs.
10. It shall be open to the Programme Officer and Gram Panchayat to direct any person who applied for employment under the Scheme to do work of any type permissible under it.
11. The Scheme shall not permit engaging any contractor for implementation of the projects under it.
12. As far as practicable, a task funded under the Scheme shall be performed by using manual labour and not machines.
13. Every Scheme shall contain adequate provisions for ensuring transparency and accountability at all level of implementation.
14. Provisions for regular inspection and supervision of works taken up under the Scheme shall be made to ensure proper quality of work as well as to ensure that the total wages paid for the completion of the work is commensurate with the quality and quantity of work done.
15. The District Programme Coordinator, the Programme Officer and the Gram Panchayat implementing the Scheme shall prepare annually a report containing the facts and figures and achievements relating to the implementation of the Scheme within his or its jurisdiction and a copy of the same shall be made available to the public on demand and on payment of such fee as may be specified in the scheme.
16. All accounts and records relating to the Scheme shall be made available for public scrutiny and any person desirous of obtaining a copy or relevant extracts therefrom may be provided such copies or extracts on demand and after paying such fee as may be specified in the Scheme.
17. A copy of the muster rolls of each Scheme or project under a Scheme shall be made available in the offices of the Gram Panchayat and the Programme Officer for inspection by any person interested after paying such fee as may be specified in the Scheme.

SCHEDULE II

(See section 5)

CONDITIONS FOR GUARANTEED RURAL EMPLOYMENT UNDER A SCHEME AND MINIMUM ENTITLEMENTS OF LABOURERS

1. The adult members of every household who—
 - (i) reside in any rural areas; and
 - (ii) are willing to do unskilled manual work, may submit their names, age and the address of the household to the Gram Panchayat at the village level (hereafter in this Schedule referred to as the Gram Panchayat) in the jurisdiction of which they reside for registration of their household for issuance of a job card.

2. It shall be the duty of the Gram Panchayat to register the household, after making such enquiry as it deems fit and issue a job card containing such details of adult members of the household affixing their photographs, as may be specified by the State Government in the Scheme.

3. The registration made under paragraph 2 shall be for such period as may be laid in the Scheme, but in any case not less than five years, and may be renewed from time to time.

4. Every adult member of a registered household whose name appears in the job card shall be entitled to apply for unskilled manual work under the Scheme.

5. All registered persons belonging to a household shall be entitled to employment in accordance with the Scheme made under the provisions of this Act, for as many days as each applicant may request, subject to a maximum of one hundred days per household in a given financial year.

6. The Programme Officer shall ensure that every applicant referred to in paragraph 5 shall be provided unskilled manual work in accordance with the provisions of the Scheme within fifteen days of receipt of an application or from the date he seeks work in case of advance application, whichever is later:

Provided that priority shall be given to women in such a way that at least one-third of the beneficiaries shall be women who have registered and requested for work under this Act.

7. Applications for work must be for at least fourteen days of continuous work.

8. There shall be no limit on the number of days of employment for which a person may apply, or on the number of days of employment actually provided to him subject to the aggregate entitlement of the household.

9. Applications for work may be submitted in writing either to the Gram Panchayat or to the Programme Officer, as may be specified in the Scheme.

10. The Gram Panchayat and Programme Officer, as the case may be, shall be bound to accept valid applications and to issue a dated receipt to the applicant. Group applications may also be submitted.

11. Applicants who are provided with work shall be so intimated in writing, by means of a letter sent to him at the address given in the job card and by a public notice displayed at the office of the Panchayats at the district, intermediate or village level.

12. As far as possible, employment shall be provided within a radius of five kilometres of the village where the applicant resides at the time of applying.

13. A new work under the Scheme shall be commenced only if—

(a) at least fifty labourers become available for such work; and

(b) the labourers cannot be absorbed in the ongoing works:

Provided that this condition shall not be applicable for new works, as determined by the State Government, in hilly areas and in respect of afforestation.

14. In cases the employment is provided outside such radius, it must be provided within the Block, and the labourers shall be paid ten per cent of the wage rate as extra wages to meet additional transportation and living expenses.

15. A period of employment shall ordinarily be at least fourteen days continuously with not more than six days in a week.

16. In all cases where unemployment allowance is paid, or due to be paid, the Programme Officer shall inform the District Programme Coordinator in writing the reasons why it was not possible for him to provide employment or cause to provide employment to the applicants.

17. The District Programme Coordinator shall, in his Annual Report to the State Council, explain as to why employment could not be provided in cases where payment of unemployment allowance is involved.

18. Provision shall be made in the Scheme for advance applications, that is, applications which may be submitted in advance of the date from which employment is sought.

19. Provision shall be made in the Scheme for submission of multiple applications by the same person provided that the corresponding periods for which employment is sought do not overlap.

20. The Gram Panchayat shall prepare and maintain or cause to be prepared and maintained such registers, vouchers and other documents in such form and in such manner as may be specified in the Scheme containing particulars of job cards and passbooks issued, name, age and address of the head of the household and the adult members of the household registered with the Gram Panchayat.

21. The Gram Panchayat shall send such list or lists of the names and addresses of households and their adult members registered with it and supply such other information to the concerned Programme Officer at such periods and in such form as may be specified in the Scheme.

22. A list of persons who are provided with the work shall be displayed on the notice board of the Gram Panchayat and at the office of the Programme Officer and at such other places as the Programme Officer may deem necessary and the list shall be open for inspection by the State Government and any person interested.

23. If the Gram Panchayat is satisfied at any time that a person has registered with it by furnishing false information, it may direct the Programme Officer to direct his name to be struck off from the register and direct the applicant to return the job card:

Provided that no such action under this paragraph shall be directed unless the applicant has been given an opportunity of being heard in the presence of two independent persons.

24. If any personal injury is caused to any person employed under the Scheme by accident arising out of and in the course of his employment, he shall be entitled to, free of charge, such medical treatment as is admissible under the Scheme.

25. Where hospitalisation of the injured worker is necessary, the State Government shall arrange for such hospitalisation including accommodation, treatment, medicines and payment of daily allowance not less than half of the wage rate required to be paid had the injured been engaged in the work.

26. If a person employed under a Scheme dies or becomes permanently disabled by accident arising out of and in the course of employment, he shall be paid by the implementing agency an *ex gratia* payment at the rate of twenty- five thousand rupees or such amount as may be notified by the Central Government, and the amount shall be paid to the legal heirs of the deceased or the disabled, as the case may be.

27. The facilities of safe drinking water, shade for children and periods of rest, first-aid box with adequate material for emergency treatment for minor injuries and other health hazards connected with the work being performed shall be provided at the work site.

28. In case the number of children below the age of six years accompanying the women working at any site are five or more, provisions shall be made to depute one of such women worker to look after such children.

29. The person deputed under paragraph 28 shall be paid wage rate.

30. In case the payment of wages is not made within the period specified under the Scheme, the labourers shall be entitled to receive payment of compensation as per the provisions of the Payment of Wages Act, 1936 (4 of 1936).

31. The wages under a Scheme may be paid either wholly in cash or in cash and kind provided that at least one-fourth of the wages shall be paid in cash only.

32. The State Government may prescribe that a portion of the wages in cash may be paid to the labourers on a daily basis during the period of employment.

33. If any personal injury is caused by accident to a child accompanying any person who is employed under a Scheme, such person shall be entitled to, free of charge, such medical treatment for the child as may be specified in the Scheme and in case of death or disablement, through an *ex gratia* payment as may be determined by the State Government.

34. In case of every employment under the Scheme, there shall be no discrimination solely on the ground of gender and the provisions of the Equal Remuneration Act, 1976 (25 of 1976), shall be complied with.

**THE PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE
ACT, 2005**

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THE PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT 2005**An
Act,**

to provide for more effective protection of the rights of women guaranteed under the Constitution who are victims of violence of any kind occurring within the family and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Fifty-Sixth Year of the Republic of India as follows:-

CHAPTER I

PRELIMINARY.

I. (1) This Act may be called the Protection of Women from Domestic Violence Act, 2005.

Short title extent and commencement.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2.. In this Act, unless the context otherwise requires,-

Definitions.

(a) "aggrieved person" means any woman who is, or has been, in a domestic relationship with the respondent and who alleges to have been subjected to any act of domestic violence by the respondent;

(b) "child" means any person below the age of eighteen years and includes any adopted, step or foster child;

(c) "compensation order" means an order granted in terms of Section 22;

(d) "custody order" means an order granted in terms of Section 21 ;

(e) "domestic incident report" means a report made in the prescribed form on receipt of a complaint of domestic violence from an aggrieved person;

(f) "domestic relationship" means a relationship between two persons who live or have, at any point of time, lived together in a shared household, when they are related by consanguinity, marriage, or through a relationship in the nature of marriage, adoption or are family members living together as a joint family;

(g) "domestic violence" has the same meaning as assigned to it in section 3;

(h) "dowry" shall have the same meaning as assigned to it in Section 2 of the Dowry Prohibition Act, 1961;

28 of 1961.

(i) "Magistrate" means the Judicial Magistrate of the first class, or as the case may be, the Metropolitan Magistrate, exercising jurisdiction under the Code of Criminal Procedure, 1973 in the area where the aggrieved person resides temporarily or otherwise or the respondent resides or the domestic violence is alleged to have taken place;

2 of 1974.

(j) "medical facility" means such facility as may be notified by the State , Government to be a medical facility for the purposes of this Act;

(k) "monetary relief" means the compensation which the Magistrate may order the respondent to pay to the aggrieved person, at any stage during the hearing of an application seeking any relief under this Act, to meet the expenses incurred and the losses suffered by the aggrieved person as a result of the domestic violence;

(l) "notification" means a notification published in the Official Gazette and the expression "notified" shall be construed accordingly;

(m)"prescribed" means prescribed by rules made under this Act;

(n) "Protection Officer" means an officer appointed by the State Government under sub-section (1) of Section 8 ;

(o) "protection order" means an order made in terms of Section 18;

(p) "residence order" means an order granted in terms of sub-section (1) of Section 19;

(q) "respondent" means any adult male person who is; or has been, in a domestic relationship with the aggrieved person and against whom the aggrieved person has sought any relief under this Act:

Provided that an aggrieved wife or female living in a relationship in the nature of a marriage may also file a complaint against a relative of the husband or the male partner;

(r) "service provider" means an entity registered under sub-section (1) of Section 10;

(s) "shared household" means a household where the person aggrieved lives or at any stage has lived in a domestic relationship either singly or along with the respondent and includes such a household whether owned or tenanted either jointly by the aggrieved person and the respondent, or owned or tenanted by either of them in respect of which either the aggrieved person or the respondent or both jointly or singly have any right, title, interest or equity and includes such a household which may belong to the joint family of which the respondent is a member, irrespective of whether the respondent or the aggrieved person has any right, title or interest in the shared household;

(t) "shelter home" means any shelter home as may be notified by the State Government to be a shelter home for the purposes of this Act.

CHAPTER II**DOMESTIC VIOLENCE**

3. For the purposes of this Act, any act, omission or commission or conduct of the respondent shall constitute domestic violence in case it—

Definition of domestic violence.

(a) harms or injures or endangers the health, safety, life, limb or well-being, whether mental or physical, of the aggrieved person or tends to do so and includes causing physical abuse, sexual abuse, verbal and emotional abuse and economic abuse; or

(b) harasses, harms, injures or endangers the aggrieved person with a view to coerce her or any other person related to her to meet any unlawful demand for any dowry or other property or valuable security; or

(c) has the effect of threatening the aggrieved person or any person related to her by any conduct mentioned in clause (a) or clause (b); or

(d) otherwise injures or causes harm, whether physical or mental, to the aggrieved person.

Explanation 1.—For the purposes of this section,—

(i) "physical abuse" means any act or conduct which is of such a nature as to cause bodily pain, harm, or danger to life, limb, or health or impair the health or development of the aggrieved person and includes assault, criminal intimidation and criminal force;

(ii) "sexual abuse" includes any conduct of a sexual nature that abuses, humiliates, degrades or otherwise violates the dignity of woman;

(iii) "verbal and emotional abuse" includes—

(a) insults, ridicule, humiliation, name calling and insults or ridicule specially with regard to not having a child or a male child; and

(b) repeated threats to cause physical pain to any person in whom the aggrieved person is interested.

(iv) "economic abuse" includes—

(a) deprivation of all or any economic or financial resources to which the aggrieved person is entitled under any law or custom whether payable under an order of a court or otherwise or which the aggrieved person requires out of necessity including, but not limited to, household necessities for the aggrieved person and her children, if any, *stridhan*, property, jointly or separately owned by the aggrieved person, payment of rental related to the shared household and maintenance;

(b) disposal of household effects, any alienation of assets whether movable or immovable, valuables, shares, securities, bonds and the like or other property in which the aggrieved person has an interest or is

entitled to use by virtue of the domestic relationship or which may be reasonably required by the aggrieved person or her children or her *stridhan* or any other property jointly or separately held by the aggrieved person; and

(c) prohibition or restriction to continued access to resources or facilities which the aggrieved person is entitled to use or enjoy by virtue of the domestic relationship including access to the shared household.

Explanation II.—For the purpose of determining whether any act, omission, commission or conduct of the respondent constitutes "domestic violence" under this section, the overall facts and circumstances of the case shall be taken into consideration.

CHAPTER III

POWERS AND DUTIES OF PROTECTION OFFICERS, SERVICE PROVIDERS, ETC.

Information to Protection Officer and exclusion of liability of informant.

4. (1) Any person who has reason to believe that an act of domestic violence has been, or is being, or is likely to be committed, may give information about it to the concerned Protection Officer.

(2) No liability, civil or criminal, shall be incurred by any person for giving in good faith of information for the purpose of sub-section (1).

Duties of police officers, service providers and Magistrate.

5. A police officer, Protection Officer, service provider or Magistrate who has received a complaint of domestic violence or is otherwise present at the place of an incident of domestic violence or when the incident of domestic violence is reported to him, shall inform the aggrieved person—

(a) of her right to make an application for obtaining a relief by way of a protection order, an order for monetary relief, a custody order, a residence order, a compensation order or more than one such order under this Act;

(b) of the availability of services of service providers;

(c) of the availability of services of the Protection Officers;

(d) of her right to free legal services under the Legal Services Authorities Act, 1987;

39 of 1987.

(e) of her right to file a complaint under section 498A of the Indian Penal Code, wherever relevant:

45 of 1860.

Provided that nothing in this Act shall be construed in any manner as to relieve a police officer from his duty to proceed in accordance with law upon receipt of information as to the commission of a cognizable offence.

Duties of shelter homes.

6. If an aggrieved person or on her behalf a Protection Officer or a service provider requests the person in charge of a shelter home to provide shelter to her, such person in charge of the shelter home shall provide shelter to the aggrieved person in the shelter home.

Duties of medical facilities.

7. If an aggrieved person or, on her behalf a Protection Officer or a service provider requests the person in charge of a medical facility to provide any medical aid to her, such person in charge of the medical facility shall provide medical aid to the aggrieved person in the medical facility.

Appointment of Protection

8. (1) The State Government shall, by notification, appoint such number of Protection Officers in each district as it may consider necessary and shall also notify the area or areas within which a Protection Officer shall exercise the powers and perform the duties conferred on him by or under this Act.

(2) The Protection Officers shall as far as possible be women and shall possess such qualifications and experience as may be prescribed.

(3) The terms and conditions of service of the Protection Officer and the other officers subordinate to him shall be such as may be prescribed.

Duties and functions of Protection Officers.

9. (1) It shall be the duty of the Protection Officer—

(a) to assist the Magistrate in the discharge of his functions under this Act;

(b) to make a domestic incident report to the Magistrate, in such form and in such manner as may be prescribed, upon receipt of a complaint of domestic violence and forward copies thereof to the police officer in charge of the police station within the local limits of whose jurisdiction domestic violence is alleged to have been committed and to the service providers in that area;

(c) to make an application in such form and in such manner as may be prescribed to the Magistrate, if the aggrieved person so desires, claiming relief for issuance of a protection order;

39 of 1987.

(d) to ensure that the aggrieved person is provided legal aid under the Legal Services Authorities Act, 1987 and make available free of cost the prescribed form in which a complaint is to be made;

(e) to maintain a list of all service providers providing legal aid or counselling, shelter homes and medical facilities in a local area within the jurisdiction of the Magistrate;

(f) to make available a safe shelter home, if the aggrieved person so requires and forward a copy of his report of having lodged the aggrieved person in a shelter home to the police station and the Magistrate having jurisdiction in the area where the shelter home is situated;

(g) to get the aggrieved person medically examined, if she has sustained bodily injuries and forward a copy of the medical report to the police station and the Magistrate having jurisdiction in the area where the domestic violence is alleged to have been taken place;

2 of 1974.

(h) to ensure that the order for monetary relief under section 20 is complied with and executed, in accordance with the procedure prescribed under the Code of Criminal Procedure, 1973 ;

(i) to perform such other duties as may be prescribed.

(2) The Protection Officer shall be under the control and supervision of the Magistrate, and shall perform the duties imposed on him by the Magistrate and the Government by, or under, this Act.

21 of 1860.
1 of 1956.

10. (1) Subject to such rules as may be made in this behalf, any voluntary association registered under the Societies Registration Act, 1860 or a company registered under the Companies Act, 1956 or any other law for the time being in force with the objective of protecting the rights and interests of women by any lawful means including providing of legal aid, medical, financial or other assistance shall register itself with the State Government as a service provider for the purposes of this Act.

Service
providers.

(2) A service provider registered under sub-section (1) shall have the power to-

(a) record the domestic incident report in the prescribed form if the aggrieved person so desires and forward a copy thereof to the Magistrate and the Protection Officer having jurisdiction in the area where the domestic violence took place;

(b) get the aggrieved person medically examined and forward a copy of the medical report to the Protection Officer and the police station within the local limits of which the domestic violence took place;

(c) ensure that the aggrieved person is provided shelter in a shelter home, if she so requires and forward a report of the lodging of the aggrieved person in the shelter home to the police station within the local limits of which the domestic violence took place.

(3) No suit, prosecution or other legal proceeding shall lie against any service provider or any member of the service provider who is, or who is deemed to be, acting or purporting to act under this Act, for anything which is in good faith done or intended to be done in the exercise of powers or discharge of functions under this Act towards the prevention of the commission of domestic violence.

11. The Central Government and every State Government, shall take all measures to ensure that-

Duties of
Government.

(a) the provisions of this Act are given wide publicity through public media including the television, radio and the print media at regular intervals;

(b) the Central Government and State Government officers including the police officers and the members of the judicial services are given periodic sensitization and awareness training on the issues addressed by this Act;

(c) effective co-ordination between the services provided by concerned Ministries and Departments dealing with law, home affairs including law and order, health and human resources to address issues of domestic violence is established and periodical review of the same is conducted;

(d) protocols for the various Ministries concerned with the delivery of services to women under this Act including the courts are prepared and put in place.

CHAPTER IV

PROCEDURE FOR OBTAINING ORDERS OF RELIEFS

Application to
Magistrate.

12. (1) An aggrieved person or a Protection Officer or any other person on behalf of the aggrieved person may present an application to the Magistrate seeking one or more reliefs under this Act:

Provided that before passing any order on such application, the Magistrate shall take into consideration any domestic incident report received by him from the Protection Officer or the service provider.

(2) The relief sought for under sub-section (1) may include a relief for issuance of an order for payment of compensation or damages without prejudice to the right of such person to institute a suit for compensation or damages for the injuries caused by the acts of domestic violence committed by the respondent:

Provided that where a decree for any amount as compensation or damages has been passed by any court in favour of the aggrieved person, the amount, if any, paid or payable in pursuance of the order made by the Magistrate under this Act shall be set off against the amount payable under such decree and the decree shall, notwithstanding anything contained in the Code of Civil Procedure, 1908, or any other law for the time being in force, be executable for the balance amount, if any, left after such set off.

5 of 1908.

(3) Every application under sub-section (1) shall be in such form and contain such particulars as may be prescribed or as nearly as possible thereto.

(4) The Magistrate shall fix the first date of hearing, which shall not ordinarily be beyond three days from the date of receipt of the application by the court.

(5) The Magistrate shall endeavour to dispose of every application made under sub-section (1) within a period of sixty days from the date of its first hearing.

Service
of notice.

13. (1) A notice of the date of hearing fixed under section 12 shall be given by the Magistrate to the Protection Officer, who shall get it served by such means as may be prescribed on the respondent, and on any other person, as directed by the Magistrate within a maximum period of two days or such further reasonable time as may be allowed by the Magistrate from the date of its receipt.

(2) A declaration of service of notice made by the Protection Officer in such form as may be prescribed shall be the proof that such notice was served upon the respondent and on any other person as directed by the Magistrate unless the contrary is proved.

Counselling.

14. (1) The Magistrate may, at any stage of the proceedings under this Act, direct the respondent or the aggrieved person, either singly or jointly, to undergo counselling with any member of a service provider who possess such qualifications and experience in counselling as may be prescribed.

(2) Where the Magistrate has issued any direction under sub-section (1), he shall fix the next date of hearing of the case within a period not exceeding two months.

15. In any proceeding under this Act, the Magistrate may secure the services of such person, preferably a woman, whether related to the aggrieved person or not, including a person engaged in promoting family welfare as he thinks fit, for the purpose of assisting him in discharging his functions.

Assistance of welfare expert.

16. If the Magistrate considers that the circumstances of the case so warrant, and if either party to the proceedings so desires, he may conduct the proceedings under this Act *in camera*.

Proceedings to be held *in camera*.

17. (1) Notwithstanding anything contained in any other law for the time being in force, every woman in a domestic relationship shall have the right to reside in the shared household, whether or not she has any right, title or beneficial interest in the same.

Right to reside in a shared household.

(2) The aggrieved person shall not be evicted or excluded from the shared household or any part of it by the respondent save in accordance with the procedure established by law.

18. The Magistrate may, after giving the aggrieved person and the respondent an opportunity of being heard and on being *prima facie* satisfied that domestic violence has taken place or is likely to take place, pass a protection order in favour of the aggrieved person and prohibit the respondent from—

Protection orders.

(a) committing any act of domestic violence;

(b) aiding or abetting in the commission of acts of domestic violence;

(c) entering the place of employment of the aggrieved person or, if the person aggrieved is a child, its school or any other place frequented by the aggrieved person;

(d) attempting to communicate in any form, whatsoever, with the aggrieved person, including personal, oral or written or electronic or telephonic contact;

(e) alienating any assets, operating bank lockers or bank accounts used or held or enjoyed by both the parties, jointly by the aggrieved person and the respondent or singly by the respondent, including her *stridhan* or any other property held either jointly by the parties or separately by them without the leave of the Magistrate;

(f) causing violence to the dependants, other relatives or any person who give the aggrieved person assistance from domestic violence;

(g) committing any other act as specified in the protection order.

19. (1) While disposing of an application under sub-section (1) of Section. 12, the Magistrate may, on being satisfied that domestic violence has taken place, pass a residence order—

Residence orders.

(a) restraining the respondent from dispossessing or in any other manner disturbing the possession of the aggrieved person from the shared household, whether or not the respondent has a legal or equitable interest in the shared household;

(b) directing the respondent to remove himself from the shared household;

(c) restraining the respondent or any of his relatives from entering any portion of the shared household in which the aggrieved person resides;

(d) restraining the respondent from alienating or disposing off the shared household or encumbering the same;

(e) restraining the respondent from renouncing his rights in the shared household except with the leave of the Magistrate; or

(f) directing the respondent to secure same level of alternate accommodation for the aggrieved person as enjoyed by her in the shared household or to pay rent for the same, if the circumstances so require:

Provided that no order under clause (b) shall be passed against any person who is a woman.

(2) The Magistrate may impose any additional conditions or pass any other direction which he may deem reasonably necessary to protect or to provide for the safety of the aggrieved person or any child of such aggrieved person.

(3) The Magistrate may require from the respondent to execute a bond with, or without sureties, for preventing the commission of domestic violence.

(4) An order under sub-section (3) shall be deemed to be an order under Chapter VIII of the Code of Criminal Procedure, 1973 and shall be dealt with accordingly.

2 of 1974.

(5) While passing an order under sub-section (1), sub-section (2) or sub-section (3), the court may also pass an order directing the officer in charge of the nearest police station to give protection to the aggrieved person or to assist her or the person making an application on her behalf in the implementation of the order.

(6) While making an order under sub-section (1), the Magistrate may impose on the respondent obligations relating to the discharge of rent and other payments, having regard to the financial needs and resources of the parties.

(7) The Magistrate may direct the officer in-charge of the police station in whose jurisdiction the Magistrate has been approached to assist in the implementation of the protection order.

(8) The Magistrate may direct the respondent to return to the possession aggrieved person her *stridhan* or any other property or valuable security to which she is entitled to.

Monetary
reliefs.

20. (1) While disposing of an application under sub-section (1) of Section 12, the Magistrate may direct the respondent to pay monetary relief to meet the expenses incurred and losses suffered by the aggrieved person and any child of the aggrieved person as a result of the domestic violence and such relief may include, but not limited to,—

(a) the loss of earnings;

(b) the medical expenses;

(c) the loss caused due to the destruction, damage or removal of any property from the control of the aggrieved person; and

(d) the maintenance for the aggrieved person as well as her children, if any, including an order under or in addition to an order of maintenance under Section 125 of the Code of Criminal Procedure, 1973 or any other law for the time being in force.

2 of 1974.

(2) The monetary relief granted under this section shall be adequate, fair and reasonable and consistent with the standard of living to which the aggrieved person is accustomed.

(3) The Magistrate shall have the power to order an appropriate lump sum payment or monthly payments of maintenance, as the nature and circumstances of the case may require.

(4) The Magistrate shall send a copy of the order for monetary relief made under sub-section (1) to the parties to the application and to the in charge of the police station within the local limits of whose jurisdiction the respondent resides.

(5) The respondent shall pay the monetary relief granted to the aggrieved person within the period specified in the order under sub-section (1).

(6) Upon the failure on the part of the respondent to make payment in terms of the order under sub-section (1), the Magistrate may direct the employer or a debtor of the respondent, to directly pay to the aggrieved person or to deposit with the court a portion of the wages or salaries or debt due to or accrued to the credit of the respondent, which amount may be adjusted towards the monetary relief payable by the respondent.

21. Notwithstanding anything contained in any other law for the time being in force, the Magistrate may, at any stage of hearing of the application for protection order or for any other relief under this Act grant temporary custody of any child or children to the aggrieved person or the person making an application on her behalf and specify, if necessary, the arrangements for visit of such child or children by the respondent:

Custody
orders.

Provided that if the Magistrate is of the opinion that any visit of the respondent may be harmful to the interests of the child or children, the Magistrate shall refuse to allow such visit.

22. In addition to other reliefs as may be granted under this Act, the Magistrate may on an application being made by the aggrieved person, pass an order directing the respondent to pay compensation and damages for the injuries, including mental torture and emotional distress, caused by the acts of domestic violence committed by that respondent.

Compensation orders.

23. (1) In any proceeding before him under this Act, the Magistrate may pass such interim order as he deems just and proper.

Power to grant interim and *ex parte* orders.

(2) If the Magistrate is satisfied that an application *prima facie* discloses that the respondent is committing, or has committed an act of domestic violence or that there is a likelihood that the respondent may commit an act of domestic violence, he may grant an *ex parte* order on the basis of the affidavit in such form, as may be prescribed, of the aggrieved person under Section 18, Section 19, Section 20, Section 21 or, as the case may be, Section 22 against the respondent.

24. The Magistrate shall, in all cases where he has passed any order under this Act, order that a copy of such order, shall be given free of cost, to the parties to the application, the police officer in-charge of the police station in the jurisdiction of which the Magistrate has been approached, and any service provider located within the local limits of the jurisdiction of the court and if any service provider located within the local limits of the jurisdiction of the court and if any service provider has registered a domestic incident report, to that service provider.

Court to give copies of order free of cost.

25. (1) A protection order made under Section 18 shall be in force till the aggrieved person applies for discharge.

Duration and alteration of orders.

(2) If the Magistrate, on receipt of an application from the aggrieved person or the respondent, is satisfied that there is a change in the circumstances requiring alteration, modification or revocation of any order made under this Act, he may, for reasons to be recorded in writing pass such order, as he may deem appropriate.

26. (1) any relief available under Sections 18, 19, 20, 21 and 22 may also be sought in any legal proceeding, before a civil court, family court or a criminal court, affecting the aggrieved person and the respondent whether such proceeding was initiated before or after the commencement of this Act.

Relief in other suits and legal proceedings.

(2) any relief referred to in sub-section (1) may be sought for in addition to and along with any other relief that the aggrieved person may seek in such suit or legal proceeding before a civil or criminal court.

(3) In case any relief has been obtained by the aggrieved person in any proceedings other than a proceeding under this Act, she shall be bound to inform the Magistrate of the grant of such relief.

Jurisdiction.

27. (1) The court of Judicial Magistrate of the first class or the Metropolitan Magistrate, as the case may be, within the local limits of which—

(a) the person aggrieved permanently or temporarily resides or carries on business or is employed; or

(b) the respondent resides or carries on business or is employed; or

(c) the cause of action has arisen, shall be the competent court to grant a protection order and other orders under this Act and to try offences under this Act.

(2) Any order made under this Act shall be enforceable throughout India.

Procedure.

28. (1) Save as otherwise provided in this Act, all proceedings under Sections 12, 18, 19, 20, 21, 22 and 23 and offences under section 31 shall be governed by the provisions of the Code of Criminal Procedure, 1973.

2 of 1974.

(2) Nothing in sub-section (1) shall prevent the court from laying down its own procedure for disposal of an application under section 12 or under sub-section (2) of section 23.

Appeal.

29. There shall lie an appeal to the Court of Session within thirty days from the date on which the order made by the Magistrate is served on the aggrieved person or the respondent, as the case may be, whichever is later.

CHAPTER V

MISCELLANEOUS

Protection Officers and members of service providers to be public servants.

30. The Protection Officers and members of service providers, while acting or purporting to act in pursuance of any of the provisions of this Act or any rules or orders made thereunder, shall be deemed to be public servants :within the meaning of Section 21 of the Indian Penal Code.

45 of 1860.

Penalty for breach of protection order by respondent.

31. (1) A breach of protection order, or of an interim protection order, by the respondent shall be an offence under this Act and shall be punishable with imprisonment of either description for a term which may extend to one year, or with fine which may extend to twenty thousand rupees, or with both.

(2) The offence under sub-section (1) shall as far as practicable be tried by the Magistrate who had passed the order, the breach of which has been alleged to have been caused by the accused.

(3) While framing charges under sub-section (1), the Magistrate may also frame charges under section 498A of the Indian Penal Code or any other provision of that Code or the Dowry Prohibition Act, 1961, as the case may be, if the facts disclose the commission of an offence under those provisions.

45 of 1860.
28 of 1961.

Cognizance and proof.

32. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the offence under sub-section (1) of section 31 shall be cognizable and non-bailable.

2 of 1974.

(2) Upon the sole testimony of the aggrieved person, the court may conclude that an offence under sub-section (1) of Section 31 has been committed by the accused.

- 33.** If any Protection Officer fails or refuses to discharge his duties as directed by the Magistrate in the protection order without any sufficient cause, he shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to twenty thousand rupees, or with both.
- Penalty for not discharging duty by Protection Officer.
- 34.** No prosecution or other legal proceeding shall lie against the Protection Officer unless a complaint is filed with the previous sanction of the State Government or an officer authorised by it in this behalf.
- Cognizance of offence committed by Protection Officer.
- 35.** No suit, prosecution or other legal proceeding shall lie against the Protection Officer for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act or any rule or order made thereunder.
- Protection of action taken in good faith.
- 36.** The provisions of this Act shall be in addition to, and not in derogation of the provisions of any other law, for the time being in force.
- Act not in derogation of any other law.
- 37. (1)** The Central Government may, by notification, make rules for carrying out the provisions of this Act.
- Power of Central Government to make rules.
- (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-
- (a) the qualifications and experience which a Protection Officer shall possess under sub-section (2) of Section 8;
- (b) the terms and conditions of service of the Protection Officers and the other officers subordinate to him, under sub-section (3) of Section 8;
- (c) the form and manner in which a domestic incident report may be made under clause (b) of sub-section (1) of Section 9;
- (d) the form and the manner in which an application for protection order may be made to the Magistrate under clause (c) of sub-section (1) of Section 9;
- (e) the form in which a complaint is to be filed under clause (d) of sub-section (1) of Section 9;
- (f) the other duties to be performed by the Protection Officer under clause (i) of sub-section (1) of Section 9;
- (g) the rules regulating registration of service providers under sub-section (1) of Section 10;
- (h) the form in which an application under sub-section (1) of Section 12 seeking reliefs under this Act may be made and the particulars which such application shall contain under sub-section (3) of that section;

(i) the means of serving notices under sub-section (1) of Section 13 ;

(j) the form of declaration of service of notice to be made by the Protection Officer under sub-section (2) of Section 13 ;

(k) the qualifications and experience in counselling which a member of the service provider shall possess under sub-section (1) of Section 14;

(l) the form in which an affidavit may be filed by the aggrieved person under sub-section (2) of Section 23 ;

(m) any other matter which has to be, or may be, prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions, aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

THE IMMIGRATION (CARRIERS' LIABILITY) AMENDMENT ACT 2005

An Act,

to amend the Immigration (Carrier's Liability) Act, 2000

Be it enacted by Parliament in the Fifty-Sixth Year of the Republic of India as follows:-

1. (1) This Act may be called the Immigration (Carriers' Liability) Amendment Act, 2005.

Short title.

2.. After Section 3 of the Immigration (Carrier's Liability) Act, 2000, the following section shall be inserted, namely:-

Insertion of new
Section 3A to Act 52
of 2000.

"3A. (1) Without prejudice to the provisions of the Passport (Entry into India) Act, 1920 and the rules made thereunder, if the Central Government is of opinion that it is necessary or expedient in the interest of the general public or to fulfil the international obligation it may, by order notified in the Official Gazette and subject to such conditions as may be specified in the order, exempt any carrier or class of carriers from the operations of all or any of the provisions of this Act and may, as often as may be necessary, revoke or modify such order.

Power to
exempt.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament."

THE WAREHOUSING CORPORATIONS (AMENDMENT) ACT 2005**An
Act,***further to amend the Warehousing Corporations Act, 1962.*

Be it enacted by Parliament in the Fifty-Sixth Year of the Republic of India as follows:-

	1. (1) This Act may be called the Warehousing Corporations (Amendment) Act, 2005.	Short title and commencement.
	(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.	
58 of 1962.	2. In Section 7 of the Warehousing Corporations Act, 1962 (hereinafter referred to as the Principal Act),— (a) in sub-section (1),— (i) Clause (b) shall be omitted; (ii) after clause (f), the following clause shall be inserted, namely:— “(ff) three Directors to be appointed by the Central Government;” (b) in sub-section (4), the words “and a Vice-Chairman” shall be omitted;— (c) after sub-section (4), the following sub-section shall be inserted, namely:— “(4A) The Directors appointed under clause (ff) of sub-section (1) shall be entitled to receive such salary and allowances as the Central Warehousing Corporation may, with the approval of the Central Government, determine.”	Amendment of Section 7.
Amendment of Section 8.	3. In Section 8 of the Principal Act, in clause (v), for the words “the managing director”, the words, brackets, letters and figures “the directors appointed under clause (ff) of sub-section (1) of Section 7 and the managing director” shall be substituted.	
Amendment of Section 12.	4. In Section 12 of the Principal Act,— (a) in sub-section (1), in clause (a), the words “and the Vice-Chairman” shall be omitted; (b) for sub-section (2), the following sub-section shall be substituted, namely:— “(2) The Chairman of the Board of Directors shall be the Chairman of the Executive Committee.”	
Amendment of Section 27.	5. In Section 27 of the Principal Act, in sub-section (2), in clause (iii), for the words “nationalised bank”, the words “scheduled bank” shall be substituted.—	

**THE HIGH COURT AND SUPREME COURT JUDGES (SALARIES AND CONDITIONS OF SERVICE)
(AMENDMENT) ACT 2005**

**An
Act**

further to amend the High Court Judges (Salaries and Conditions of Service) Act, 1954 and the Supreme Court Judges (Salaries and Conditions of Service) Act, 1958.

Be it enacted by Parliament in the Fifty-Sixth Year of the Republic of India as follows:-

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the High Court and Supreme Court Judges (Salaries and Conditions of Service) Amendment Act, 2005.

Short title and commencement.

(2) It shall be deemed to have come into force on the 1st day of April, 2004.

CHAPTER II

AMENDMENT OF THE HIGH COURT JUDGES
(SALARIES AND CONDITIONS OF SERVICE) ACT, 1954.

Amendment of
Section 17A.

2. In the High Court Judges (Salaries and Conditions of Service) Act, 1954 (hereinafter referred to as the High Court Judges Act), in Section 17A, in sub-section (1),—

28 of 1954.

(i) after the words “family pension calculated at the rate of fifty per cent of his salary”, the words “plus fifty per cent of his dearness pay” shall be inserted;

(ii) for the words “and thereafter at the rate of thirty per cent of his salary subject to a minimum of twelve hundred and seventy-five rupees per month”, the words “and thereafter at the rate of thirty per cent of his salary *plus* thirty per cent of his dearness pay subject to a minimum of one thousand nine hundred and thirteen rupees per month” shall be substituted.

Amendment of
Section 22A.

3. In Section 22A of the High Court Judges Act, in sub-section (2), for the words “of ten thousand rupees”, the words “equivalent to an amount of thirty per cent of the salary *plus* thirty per cent of the dearness pay” shall be substituted.

Amendment of
Section 22C..

4. In Section 22C of the High Court Judges Act, for the words “three thousand” and “two thousand”, the words “seven thousand five hundred” and “six thousand” shall respectively be substituted.

Amendment of the
First Schedule.

5. In the First Schedule to the High Court Judges Act,—

(a) in Part I,—

(i) in Paragraph 2,—

(A) in clause (a), for the letters and figures “Rs.14,630”, the letters and figures “Rs.21,945” shall be substituted;

(B) in clause (b), for the letters and figures “Rs.11,150”, the letters and figures “Rs.16,725” shall be substituted;

(C) in the proviso, for the letters and figures "Rs.1,80,000" and "Rs.1,56,000", the letters and figures "Rs.2,70,000" and "Rs.2,34,000" shall respectively be substituted;

(ii) in Paragraph 8, for the letters and figures "Rs. 1,80,000", the letters and figures "Rs. 2,70,000" shall be substituted;

(iii) in Paragraph 9, for the letters and figures "Rs. 51,190", the letters and figures "Rs. 76,785" shall be substituted;

(b) in Part II,—

(i) in the proviso to Paragraph 2, for the letters and figures "Rs. 1,80,000" and "Rs. 1,56,000", the letters and figures "Rs. 2,70,000" and "Rs. 2,34,000" shall respectively be substituted;

(ii) in Paragraph 3, for the figures "11,265", "13,520", "15,766", "18,022", "20,280" and "22,533", the figures "16,898", "20,280", "23,649", "27,033", "30,420" and "33,799" shall respectively be substituted;

(c) in Part III,—

(i) in Paragraph 2,—

(A) in clause (b), for the letters and figures "Rs. 5,200", the letters and figures "Rs. 7,800" shall be substituted

(B) in the proviso, for the letters and figures "Rs. 1,80,000" and "Rs. 1,56,000", the letters and figures "Rs. 2,70,000" and Rs. 2,34,000" shall respectively be substituted.

CHAPTER III

AMENDMENT OF THE SUPREME COURT JUDGES (SALARIES AND CONDITIONS OF SERVICE) ACT, 1958.

41 of 1958.

6. In Section 13 of the Supreme Court Judges (Salaries and Conditions of Service) Act, 1958 (hereinafter referred to as the Supreme Court Judges Act), clause (a) shall be omitted.

Amendment of
Section 13.

7. After Section 13 of the Supreme Court Judges Act, the following section shall be inserted, namely:—

Insertion of new
Section 13A.

"13A. Subject to the provisions of this Act, a period of ten years shall be added to the service of a Judge for the purposes of his pension, who qualified for appointment as such judge under sub-clause (b) of clause (3) of Article 124 of the Constitution."

Benefit of added
years of service.

8. In the Supreme Court Judges Act, in Section 16A, in sub-section (1),—

Amendment of
Section 16A.

(i) in clause (a),—

(A) after the words "family pension calculated at the rate of fifty per cent of his salary", the words "*plus* fifty per cent of his dearness pay" shall be inserted;

(B) after the words "and thereafter at the rate of thirty per cent of his salary", the words "*plus* thirty per cent of his dearness pay" shall be inserted.

(ii) in clause (b), after the words "family pension shall be thirty per cent of his salary", the words "*plus* thirty per cent of his dearness pay" shall be inserted.

9. In Section 23 of the Supreme Court Judges Act, in sub-section (1A), for the words “of ten thousand rupees”, the words “equivalent to an amount of thirty per cent of the salary *plus* thirty per cent of the dearness pay” shall be substituted.

Amendment of
Section 23.

10. In Section 23B of the Supreme Court Judges Act, for the words “four thousand” and “three thousand”, the words “ten thousand” and “seven thousand five hundred” shall respectively be substituted.

Amendment of
Section 23B.

11. In the Schedule to the Supreme Court Judges Act,—

Amendment of the
Schedule.

(a) in Part I,—

(i) in Paragraph 2,—

(A) the words “and who has completed not less than seven years of service for pension as a Judge in India” shall be omitted;

(B) in clause (b), for the letters and figures “Rs. 4,020”, “Rs. 1,21,880” and “Rs. 10,240”, the letters and figures “Rs. 6,030”, “Rs. 1,82,820” and Rs. 15,360” shall respectively be substituted.

(C) in the proviso, for letters and figures “Rs. 1,98,000”, the letters and figures “Rs. 2,97,000” shall be substituted;

(ii) in Paragraph 3,—

(A) the words “and who has completed not less than seven years of service for pension as a Judge in India” shall be omitted.

(B) in the proviso, for the letters and figures “Rs. 1,80,000”, the letters and figures “Rs. 2,70,000” shall be substituted;

(iii) Paragraph 5 shall be omitted;

(b) in Part II,—

(i) in Paragraph 2,—

(A) in clause (b), for the letters and figures “Rs. 11,265”, the letters and figures “Rs. 16,898” shall be substituted;

(B) in the proviso, for the letters and figures “Rs. 1,98,000” and “Rs. 1,80,000”, the letters and figures “Rs. 2,97,000” and “Rs. 2,70,000” shall respectively be substituted;

(c) in Part III,—

(i) in Paragraph 2,—

(A) in clause (b), for the letters and figures “Rs. 5,200”, the letters and figures “Rs. 7,800” shall be substituted;

(B) in the proviso, for the letters and figures “Rs. 1,98,000” and “Rs. 1,80,000”, the letters and figures “Rs. 2,97,000” and “Rs. 2,70,000” shall respectively be substituted.

THE RAILWAYS (AMENDMENT) ACT 2005

An Act

further to amend the Railways Act, 1989.

Be it enacted by Parliament in the Fifty-Sixth Year of the Republic of India as follows:-

- I. (1) This Act may be called the Railways (Amendment) Act, 2005.
- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short title and
commencement.

24 of 1989.

2. In Section 2 of the Railways Act, 1989 (hereinafter referred to as the Principal Act),—

Amendment of
Section 2.

(a) after clause (1), the following clause shall be inserted, namely:—

‘(1A) “Authority” means the Rail Land Development Authority constituted under Section 4A;’;

(b) after clause (32), the following clause shall be inserted, namely:—

‘(32A) “Railway Land” means any land in which a Government railways has any right, title or interest;

Insertion of new
Chapter IIA.

3. After Chapter II of the Principal Act, the following Chapter shall be inserted, namely:—

CHAPTER IIA

RAIL LAND DEVELOPMENT AUTHORITY

Establishment of
Railway Land
Development
Authority.

4A. The Central Government may, by notification, establish an authority to be called the Rail Land Development Authority to exercise the powers and discharge the functions conferred on it by or under this Act.

Composition of
Authority.

4B. (1) The Authority shall consist of a Chairman, Vice-Chairman and not more than four other members.

(2) The Member Engineering, Railway Board shall be the Chairman, ex-officio, of the Authority.

(3) The Vice-Chairman and three other members shall be appointed by the Central Government from amongst persons who are or have been working in the Civil Engineering, Finance and Traffic disciplines of any railway administration and having adequate experience in the relevant discipline as the Central Government may consider necessary.

(4) The Central Government shall also appoint a member who shall be a person from outside the railway administration and having adequate experience in such field as it may consider necessary.

Terms and
conditions of
appointment of
Vice-Chairman and
other Members.

4C. The terms and conditions of appointment of the Vice-Chairman and the other Members of the Authority, other than the Chairman, and the manner of filling casual vacancies among them shall be such as may be prescribed.

Functions of
Authority.

4D. (1) The Authority shall discharge such functions and exercise such powers of the Central Government in relation to the development of railway land and as are specifically assigned to it by the Central Government.

(2) In particular, and without prejudice to the generality of the foregoing power, the Central Government may assign to the Authority all or any of the following functions, namely:—

(i) to prepare scheme or schemes for use of railway land in conformity with the provisions of this Act.

(ii) to develop railway land for commercial use as may be entrusted by the Central Government for the purpose of generating revenue by non-tariff measures;

(iii) to develop and provide consultancy, construction or management services and undertake operation in India in relation to the development of land and property;

(iv) to carry out any other work or function as may be entrusted to it by the Central Government, by order in writing.

Powers of Authority to enter into agreements and execute contracts.

4E. Subject to such directions as may be given to it by the Central Government, the Authority shall be empowered to enter into agreements on behalf of the Central Government and execute contracts.

Procedure of transaction of business of Authority.

4F. The Authority shall have power to regulate, by means of regulations made by it its own procedure (including quorum at its meetings) and the conduct of all business to be transacted by it, the constitution of Committees and Sub-Committees of Members and the delegation to them any of the powers (excluding the power to make regulations under this Chapter) and to perform duties of the Authority.

4G. (1) For the purpose of enabling it efficiently to discharge its functions under this Act, the Central Government shall provide the Authority with such officers and other employees, and the Authority shall, subject to the rules as may be made by the Central Government in this behalf, appoint, whether on deputation or otherwise, such number of officers and other employees as it may deem necessary.

Appointment of Officers and other employees of Authority.

(2) The salaries and allowances payable to, and the other terms and conditions of service of, the officers and other employees appointed for the purpose of the Authority, shall be such as may be prescribed.

4H. The salaries and allowances payable to the Vice-Chairman and other Members of the Authority and the administrative expenses including the salaries, allowances and pensions payable to the officers and other employees of the Authority shall be defrayed out of the Consolidated Fund of India.

Salaries allowances etc., to be defrayed out of Consolidated Fund of India.

4-I. (1) The Authority may, with the previous approval of the Central Government make regulations, consistent with this Act and the rules made thereunder, for carrying out the provisions of this Chapter.

Power of Authority to make regulations.

(2) Every regulation made by the Authority under this Chapter shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.”.

4. In Section 11 of the Principal Act, after clause (d), the following clause shall be inserted, namely:—

Amendment of Section 11.

“(da) developing any railway land for commercial use,”.

A. K. SANGMA,
Under Secretary to the Govt. of Meghalaya,
Law (B) Department.